were voluntary and provided the accused was warned or cautioned when this is required. *Walker v. State,* 136 Ind., 663; *People v. Howes,* 81 Mich., 396. But in the case of such confessions their voluntary character should be very strictly examined into. *State v. Dodson,* 14 S. C., 628. If the confession is induced by threats, the degree of fear is immaterial. *Stephen v. State,* 11 Ga., 225. So threats made after the confession do not render it inadmissible. *Kollenberger v. People,* 9 Colo., 233. Nor is a confession rendered inadmissible by the fact that the party is in custody, provided it is not extorted by inducements or threats. *Pierce v. U. S.,* 160 U. S., 355. Where a confession has been obtained under circumstances which would render a confession inadmissible, a confession subsequently made is not admissible unless there is reason to presume that the hope or fear which influenced the first confession is dispelled. *Van Buren v. State,* 24 Miss., 512. And the motives proved to have been offered will be presumed to continue and to have produced the confession unless the contrary is shown by clear evidence. *State v. Potter,* 18 Conn., 165. *Com. v. Taylor,* 5 Cush. (Mass.), 605.

ELECTIONS—PRIMARY ELECTIONS—RIGHT OF SUCCESSFUL CANDIDATE TO WITHDRAW NAME FROM OFFICIAL BALLOT.—STATE V. HAMILTON, 111 PAC., 1026 (NEV.).—*Held,* that the court cannot allow a candidate nominated at a primary election to withdraw his name from the general election ballot, even for deserving reasons, the question whether a candidate may do so being a matter of policy for the Legislature. Norcross, C. J., *dissenting.*

This precise question does not seem to have arisen for judicial decision elsewhere, and no very clear idea, otherwise than by general inference, can be obtained as to what the different state courts would decide. But, while in the absence of express provisions general election laws are not applicable to primary elections, they will aid to maintain the general purpose of primary elections. *People v. Cavanaugh,* 112 Cal., 674; *Johnson v. County,* 16 N. D., 363. The general purpose of primary election laws is to secure to individual voters a free expression of their will in exercising their preferences for party candidates. *State v. Moore,* 87 Minn., 308; *Walling v. Lansdon,* 15 Ida., 282. Since the intention of the Legislature controls the courts in the construction of its statutes, it would seem, therefore, that if the Legislature intended as a matter of policy to prevent withdrawals of candidates nominated at primary elections, the courts cannot allow such candidates to withdraw, even for deserving reasons. *Ellis v. Boer,* 150 Mich., 452; *Ladd v. Holmes,* 40 Ore., 167. But courts must not uphold strained constructions of a primary law to avoid possible evils not foreseen by the Legislature, because the Legislature is not likely to have had an intent contrary to an established custom allowing candidates and officers to withdraw and resign. *State v. Felton,* 77 Ohio St., 554; *Dykstra v. Holden,* 151 Mich., 289.

EXECUTORS AND ADMINISTRATORS—RIGHTS OF EXECUTOR BEFORE ISSUE OF LETTERS.—DICKINSON V. POWERS, 125 N. Y. SUPP., 949.—*Held,* that it is not an unlawful interference for an executor to take possession of

testator's property pending probate of the will to be taken care of or to remove it to another place for safekeeping.

Formerly, at common law, the will itself was the sole source of an executor's title. Probate was merely the evidence of that title. *Wolfe v. Underwood,* 97 Ala., 375; *Shirley v. Healds,* 34 N. H., 407. And in some jurisdictions the executor is still somewhat favored in this respect. *Emanuel v. Norcum,* 7 How. (Miss.), 150; *Thiefes v. Mason,* 55 N. J. Eq., 456. The better view, however, which has been established by statute in many jurisdictions, is that neither executor nor administrator is entitled to exercise power freely, as such, until he has duly qualified in the probate court by giving bond. *Gardner v. Gautt,* 19 Ala., 666; *Davis v. Davis,* 2 Cush. (Mass.), 111. Nor can he sue or be sued, either at law or in equity, until after he has duly qualified. *Wood v. Cosby,* 76 Ala., 557. Notwithstanding the lack of authority of the representative to receive assets before his appointment, his taking possession of the decedant's estate for purposes of immediate protection, custody, and management is somewhat favored in practice; and for whatever assets he thus receives he is chargeable in his representative capacity when his appointment becomes completed. *Head v. Sutton,* 31 Kan., 616. When letters testamentary are issued, they relate back so as to vest the decedant's property in the representative as from the time of death and validate the acts of the representative done in the interim. *Johnson v. Blair,* 132 Ala., 128; but such validation applies only to acts which might properly have been done by a personal representative and the estate ought not to be prejudiced by wrongful and injurious acts performed before one's appointment. *Deuton v. Sanford,* 103 N. Y., 607; *Brown v. Lewis,* 9 R. I., 497.

FRAUD—FALSE REPRESENTATIONS—DUTY OF PURCHASER.—MARTIN V. BURFORD, 181 FED., 922.—*Held,* that where defendants, in order to induce plaintiff to purchase an interest in a salmon packing outfit, falsely represented that the property consisted of a store building and site located in a place remote from that where the bargain was made, and practically inaccessible to plaintiff at the time, and plaintiff had no knowledge concerning such store building and site, except defendant's representations, plaintiff was not bound to exercise diligence to ascertain whether the representations were true or false, but was entitled to rely on the truth thereof, and recover damages for their falsity.

According to the weight of authority, the rule of *caveat emptor* applies, and under ordinary circumstances, the purchaser is required to avoid deception. *Schwabacher v. Riddle,* 99 Ill., 343; *Anderson Foundry, etc., Works v. Meyers,* 15 Ind. App., 385; *Black v. Miller,* 15 Mich., 323; *Wart v. Hoose,* 119 N. Y. Supp., 1107. But this rule calls for only reasonable diligence on the part of the buyer, and what is reasonable diligence is determined by the circumstances of the transaction. *Walsh v. Hall,* 60 N. C., 233; *Watson v. Atwood,* 25 Conn., 313. The rule of *caveat emptor* does not apply where the fact in question is difficult of ascertainment by the purchaser, and is or may be presumed to be peculiarly within the knowledge of the vendor. *White v. Seaver,* 25 Barb.